

15 AUGUST 1946

I N D E X
Of
WITNESSES

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I N D E X
Of
EXHIBITS
(none)

1 Thursday, 15 August, 1946

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

16 - - -

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19 (English to Japanese and Japanese
20 to English interpretation was made by the
21 Language Section, IMTFE.)
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1 THE PRESIDENT: All the accused are present
2 except OKAWA, HIRANUMA, and MATSUI, each of whom is
3 represented by counsel.

4 I have here a certificate of illness of HIRA-
5 NUMA by the assistant prison surgeon at Sugamo Prison.
6 This certificate will be recorded and filed.

7 Does counsel desire to mention any matter?

8 Mr. Levin.

9
10 J O H N G O E T T E, called as a witness on
11 behalf of the prosecution, resumed the stand
12 and testified as follows:

13 CROSS-EXAMINATION (Continued)

14 BY MR. LEVIN:

15 Q Mr. Goette, at the time you interviewed
16 General SUZUKI he was only a major general, is that
17 correct?

18 A General SUZUKI was in civilian clothes. I
19 had no knowledge whatsoever of his rank.

20 Q You stated that he was connected with the
21 Planning Board at that time?

22 A That is right. The interview took place in
23 the office of the Planning Board.

24 Q Now, the evidence indicates at that time he
25 was the acting head of the China Affairs Bureau and

GOETTE

CROSS

1 was then presently detached from the army. Did you
2 know whether or not he was actually connected with
3 the Planning Board at that time?

4 A On that same day I spoke with Japanese offi-
5 cials of the China Affairs Board, and it was in that
6 connection, General SUZUKI's connection with the China
7 Affairs Board, that I spoke with him.

8 Q Was the interview carried on only between
9 you and the General or also with Mr. Steele?

10 A The arrangements for the interview were made
11 by Mr. Steele.

12 Q Was there any other Japanese officer there
13 at the time?

14 A A Japanese official -- there was an interpreter
15 there.

16 Q At that time the war with China was actually
17 going on, was it not?

18 A The Japanese army were in full-scale military
19 operations in China. They had not declared it to be
20 a war.

21 Q Was this the only time you met General SUZUKI,
22 Teiichi, either in Tokyo or anywhere else?

23 A That is the only time I am aware of having
24 met General SUZUKI.

25 Q That entire interview, together with the

GOETTE

CROSS
REDIRECT

1 translations, lasted half an hour, is that correct?

2 A I would say approximately.

3 Q Was the statement the General made a pro-
4 nouncement of policy or an objective statement of
5 existing conditions, in your opinion?

6 A The General gave us the interview. He was
7 the Japanese official. We could only presume he was
8 stating the official case.

9 Q As I understand it, then, it was your under-
10 standing that he was not expressing his own views?

11 A I would credit the General with honesty in
12 meeting two newspapermen that he would say what he
13 believed.

14 MR. LEVIN: That is all, Mr. President, and
15 there will be no further examination of this witness
16 on the part of the defense on this phase.

17 THE PRESIDENT: Mr. Chief Prosecutor.

18 MR. KEENAN: I have one question.

19 REDIRECT EXAMINATION

20 BY MR. KEENAN:

21 Q Please state whether the HO-UMEZU Agreement
22 was, to your knowledge, published by the Chinese
23 authorities, the national government, or anyone else
24 that you know of.

25 A To the best of my knowledge, the HO-UMEZU

GOETTE

RECROSS

1 Agreement was never recognized by the nationalist
2 government of China as a state document and was not
3 published by them or anyone else.

4 MR. KEENAN: That is all on this phase.

5 RECROSS-EXAMINATION

6 BY MR. LOGAN:

7 Q The fact that that agreement was not pub-
8 lished did not prevent you, as a newspaperman, from
9 trying to find out what the terms of it was, though;
10 isn't that true?

11 A That is true. And the foreign correspondents
12 and myself did find out the terms and we so cabled
13 them to our principals abroad.

14 Q Isn't it a fact that you testified here Tues-
15 day that you did not know the terms of that agreement?

16 A I think I testified the Chinese officials
17 told me that that agreement called for the withdrawal
18 of the troops of General Yu Hsueh-Chung and the troops
19 of General Shan-Chen from the Peiping area.

20 Q I again ask you, Mr. Goette, didn't you state
21 here Tuesday that you did not see the agreement and
22 you didn't know what it contained?

23 MR. KEENAN: If the Court please, prosecution
24 objects to that question, on the ground that it assumes
25 that this witness said at some time that he did see

GOETTE

RECROSS

1 this agreement. He has already stated that there was
2 no formal agreement, he was unable to find out
3 exactly what was in it, it never was published, and
4 that he didn't see it. And, therefore, I object to
5 this question as being misleading and assuming some-
6 thing to be said by this witness which he has never
7 said at any time during this examination.

8 THE PRESIDENT: I think I suggest, subject to
9 what you have to say, Mr. Logan, that those further
10 questions exceeded the scope of the new matter brought
11 out by the re-examination. The new matter was con-
12 fined to the nationalist government's attitude to that
13 agreement. That did not justify you in further exam-
14 ining this man as to his knowledge of the contents of
15 the agreement.

16 MR. LOGAN: Well, I don't see how, your Honor,
17 he can testify to what was in the agreement today if
18 he testified Tuesday he didn't see it and didn't know
19 what was in it and he had no personal knowledge of it.

20 I might also state, your Honor, that you
21 observed Tuesday, quoting: "In fairness to the wit-
22 ness, it must be said that he has already affirmed
23 that he does not know what was in that agreement."
24 And that is why I can't understand how he can say
25 today that he telegraphed the contents of it to his

GOETTE

DIRECT

1 office. I think it speaks for itself, your Honor.

2 THE PRESIDENT: The objection is upheld.

3 MR. KEENAN: If the Court please, may I
4 present Henry Austin Hauxhurst, one of the assistants
5 of the prosecution.

6 THE PRESIDENT: Mr. Hauxhurst.

7 MR. HAUXHURST: May it please the Tribunal,
8 the testimony to be taken at this time is addressed to
9 the economic exploitation or aggression phase of this
10 case.

11 DIRECT EXAMINATION

12 BY MR. HAUXHURST:

13 Q Mr. Goette, following the formal military
14 occupation of Peiping by the Japanese army in August,
15 1937, did you discuss with any Japanese officials their
16 future political plans?

17 A I did, with many Japanese military officials,
18 including General NEMOTO, of the Special Service
19 Mission of the Japanese army at Peiping.

20 Q Will you state what was said at that time, and
21 by whom?

22 A General NEMOTO on that occasion referred to
23 the project of forming a puppet government in Peiping
24 and he referred specifically to his difficulties therein.
25 The Japanese there in Peiping further gave me the

GOETTE

DIRECT

1 impression that the formation of such a government was
2 in the far distance.

3 Q Will you state what did happen in connection
4 with the formation of such a regime?

5 A Late on the night of December 13, 1937, I
6 received a telephone call from the spokesman of the
7 press section of the Japanese army at Peiping.

8 Q What was said in that telephone conversation?

9 A He invited me to be present the next morning
10 at 11:30 in one of the pavilions of the former Imperial
11 Palace at Peiping.

12 The next morning I went to the palace and met
13 my colleagues among the foreign newspapermen and there
14 in that pavilion at that time, December 14, 1937, the
15 so-called Provisional Government of the Republic of
16 China was inaugurated.

17 Q Who did you see there?

18 A Present were Japanese army officers in uniform,
19 Japanese civilians, and, of course, the members of the
20 new puppet government. After the ceremony, which was
21 very brief, the members of the puppet government, the
22 cabinet members, were introduced to the correspondents,
23 and one of their number made a very short and vague
24 statement.

25 Q Who was the head of that regime?

GOETTE

DIRECT

1 A Mr. Wang Keh-min, at one time Minister of
2 Finance in one of the former Chinese nationalist
3 governments.

4 Q Were you often in contact with him?

5 A I saw Mr. Wang Keh-min and talked with him
6 many times during the ensuing few years.

7 Q Were you present when other regimes were being
8 developed?

9 A I was.

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1 Q What was the next regime that was estab-
2 lished?

3 A In November, 1938, the spokesman of the
4 Japanese Army Press Section escorted a group of
5 foreign correspondents by rail to what we called
6 Inner Mongolia or the provinces of Chahar and Suiyuan
7 in northern China. That trip was initiated by the
8 Japanese Army, and all the correspondents were the
9 guests of the Japanese Army all throughout the trip.
10 We talked with the Japanese Army officers and Japan-
11 ese civilians who were working out three local puppet
12 governments. One such puppet regime was carved out
13 of northern Shansi Province, a second was Inner
14 Mongolia at Kueihua, and the third was at Kalgan.
15 From these three mere localized regimes was created
16 the Autonomous Federation of Mengchang which is Inner
17 Mongolia.

18 Q Who was the head of that regime, and did
19 you talk with him?

20 A The puppet head of that regime was the Inner
21 Mongolian leader, Prince Teh: T-e-h, or, as he is
22 known in China, Teh Weng: T-e-h W-e-n-g.

23 In the company of the spokesman of the
24 Japanese Army and local Japanese Army officers, I
25 went to the headquarters of Prince Teh in Kueihua.

GOETTE

DIRECT

1 There, again in the presence of the Japanese Army
2 officers and the Japanese interpreter who interpreted
3 for Prince Teh a few remarks he made, I was in his
4 presence for well over an hour. Although Prince
5 Teh was the leader of Inner Mongolia in his own
6 right before the Japanese Army moved in, and although
7 economically he was the puppet head of the new Japan-
8 ese-sponsored regime, he was given no chance to say
9 anything except the most vague comments.

10 THE PRESIDENT: Mr. Smith.

11 MR. SMITH: If the Court please, we object
12 to the repeated reference by this witness to "puppet
13 regimes" and "puppet governments." We think the
14 witness should be required to state what the facts
15 are and leave the conclusion to the Court.

16 THE PRESIDENT: Well, "puppet" describes an
17 individual. It does not express an opinion necessar-
18 ily. It can be used as a fair description. I do
19 not see any objection to it.

20 A (Continuing) Prince Teh was forced to sit
21 there in the presence of the foreign correspondents
22 while a Japanese civilian secretary of the new regime
23 produced a map and proceeded to describe civic re-
24 forms that they intended to make in the city of
25 Kueihua. Prince Teh could not conceal his embarrass-

GOETTE

DIRECT

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23 produced a map and proceeded to describe civic re-
24 forms that they intended to make in the city of
25 Kueihua. Prince Teh could not conceal his embarrass-

GOETTE

DIRECT

1 ment at having to sit in the presence of foreign
2 correspondents while such unimportant matters about
3 his own government were discussed by a minor Japan-
4 ese official.

5 Q Did you talk with any other officials of
6 this regime?

7 A Correspondents were next taken to Kalgan,
8 and there, in the Kalgan offices of the Federation,
9 we tried to get statistics on economics and finan-
10 cial policy of the new regime from the Minister of
11 Finance who was a Chinese nationalist by the name of
12 Ma Yung Kwei. Although my question was addressed to
13 the Minister of Finance, before he could answer it,
14 a Japanese civilian produced the figures from a
15 written paper and proceeded to answer. The Minister
16 of Finance sat smoking his cigarette and offered no
17 comment whatsoever during that conversation.

18 Q Generally, from whom did you receive inform-
19 ation about these regimes?

20 A Specific information about economic and
21 political policies we sought through the spokesman
22 of the Japanese Army.

23 Q What further relations did you have with
24 puppet regimes, Mr. Goette?

25 A I was accompanied by a Press Relations

GOETTE

DIRECT

1 officer of the North China Army to Tsingtao in
2 Shantung Province in January, 1940. At that time,
3 the Japanese Army had decided to amalgamate the
4 puppet regime in Peiping -- the Provisional Govern-
5 ment of the Republic of China with the so-called
6 Reform Government at Nanking. There, at Tsingtao,
7 at that time the Japanese had brought Mr. Wang Ko-min,
8 head of the North Peiping Government, and Mr. Wang
9 Ching Wei. The first day that I was at Tsingtao, I
10 met at lunch a Japanese in civilian clothes who, from
11 his conversation, showed me that he was playing a
12 leading role in the conferences. When I made
13 inquiries from the Japanese Army spokesman, I was
14 told that that Japanese was General KAGESA. After a
15 few days, I was taken again by the Japanese Army
16 Press Section spokesman to talk with Mr. Wang Ching
17 Wei. Then I was told that agreement had been reached
18 by all sides to form the National Government of China
19 at Nanking.

20 Q Was such a regime established, and, if you
21 were present at the time, will you state what
22 happened?

23 A I was present at Nanking in March, 1940,
24 when that government was established. There were a
25 group of us foreign correspondents who again were the

GOETTE

DIRECT

1 guests of the Japanese Army at Nanking in mid-March
2 when the preliminary conversations were had for the
3 final opening or inauguration of that government.
4 We correspondents went to Shanghai and then re-
5 turned to Nanking for the final inauguration. We
6 returned on March 29.

7 On that train were leading Chinese puppet
8 officials, Japanese officials, and several American
9 newspaper correspondents. Around nine o'clock that
10 evening, as the train was actually within sight of
11 the walls of Nanking, there was a sudden stoppage of
12 the train. What happened was, the locomotive and
13 the first three coaches were derailed. The Japanese
14 Army censor at Nanking did not stop any of us
15 correspondents from telegraphing our stories that
16 this accident obviously was the work of Chinese
17 opposed to the inauguration of the Nanking regime.

18 The next day we correspondents were taken
19 in Japanese Army cars to Chinese buildings where the
20 formal inauguration of the Wang Ching Wei, so-called
21 National Government of China, was held. We were in
22 the actual hall of the ceremony.

23 Q Did you observe anything else in connection
24 with that inauguration while you were there?

25 A During those days I saw General KAGESA

GOETTE

DIRECT

1 again, and then he was in the uniform of the general
2 of the Japanese Army. We correspondents, likewise,
3 talked with Mr. Wang Ching Wei who spoke in vague
4 terms of cooperation with Japan and that the policy
5 of his government was peace, anti-communism and
6 reconstruction.

7 Q What did you personally observe as to the
8 effects of these new regimes?

9 A Immediately these new regimes began imple-
10 menting what the Japanese Army called the "coopera-
11 tion" and the "Co-Prosperty Sphere." In other
12 words, they immediately went into the economic life
13 of the Chinese people under them. Japanese civilians
14 by the hundreds, if not by the thousands, were in
15 the various offices, particularly on the economic
16 and financial side of the puppet regime. There was
17 nothing undercover about this. When we correspond-
18 ents wanted information, we went directly to the
19 Japanese who were there in the offices, who had the
20 figures and also had the authority to speak.

21 Q Can you give any specific instances so far
22 as industrial concerns are concerned? If so, do it.

23 A I found Shansi Province to be an outstand-
24 ing example of Japanese absorption of China's indus-
25 tries, particularly by the Japanese Army. In 1939

GÖETTE

DIRECT

1 I was taken to Taiyuan-Fu, the capital of Shansi
2 Province, then occupied by the Japanese, of course.
3 I was taken by a Japanese Army Press Section spokes-
4 man. Shansi had long been known as a model Chinese
5 province, chiefly because its governor had created
6 some forty-two industrial modern plants. The
7 Japanese Army told me that those plants were then
8 under its own operation. I, in many instances, saw
9 at the gates of such plants the signs proclaiming
10 that "This is under operation by the Imperial Japan-
11 ese Army."

12 These plants covered many categories. There
13 was an iron smelter. I was present at the ceremony
14 when that resumed work under the Japanese Army.
15 There were tobacco mills, flour mills, cotton mills,
16 most of which I visited with a Japanese Army officer.
17 Actual statistics on the operation of the Japanese
18 Army of these plants were given me by Lieutenant
19 Colonel YAHAGI, Chief of the Japanese Army Special
20 Service Mission at Taiyuan-Fu. There, in Taiyuan,
21 in February, 1939, Lieutenant Colonel YAHAGI said
22 that in the first year of operating those Shansi
23 plants the Japanese Army had brought ¥ 6,000,000 from
24 Japan. Colonel YAHAGI said, as a result of the suc-
25 cessful operation of those plants by the Japanese

GOETTE

DIRECT

1 Army, they had been able to repay most of that
2 ¥ 6,000,000 back to Japan in the first year.

3 Colonel YAHAGI told me that in the instance
4 of six cotton mills, a profit of ¥ 3,000,000 had
5 been made by the Japanese Army within a period of
6 six months. Colonel YAHAGI explained that these
7 cotton mills produced cotton underwear, bandages,
8 mosquito bars, towels, sheets, and such other cotton
9 articles as was needed by the Japanese Army in Shansi
10 Province. Beyond what was needed by the Japanese
11 Army, the cotton produced in the mills, operated by
12 the Japanese Army, was then placed on the general
13 open market for the Chinese in Shansi Province. It
14 was in that way that the profit referred to by
15 Colonel YAHAGI was made by the Japanese Army.

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1 Q In what way, Mr. Goette, did this procedure
2 differ from the procedure in the other occupied areas?

3 A The operation by the Special -- Special
4 Service Mission of the Japanese Army of those plants
5 in Shansi was unique in my experience, in that in
6 other areas the Japanese Army turned seized industrial
7 plants and the like over to Japanese civilian companies
8 to operate. At that time in Shansi Province everything
9 of the sort was held in the hands of the Japanese Army
10 and spokesmen told me that the accounts were actually
11 in the name of Lieutenant Colonel YAHAGI as head of the
12 Army Special Service Mission.

13 Q How was it handled in the other areas?

14 A In the other areas, say in North China, it
15 was turned over to subsidiaries of the North China
16 Development Company; in Central China, to those of the
17 Central China Development Company.

18 Q What did you observe about the relationship
19 between the puppet governments and the new Japanese
20 created economic system that you referred to?

21 A The Chinese not in the puppet governments
22 were worried because these puppet governments were
23 turning over the franchises of Chinese government
24 property to the North China Development Company and
25 its subsidiaries. I refer particularly to a thing

GOETTE

DIRECT

1 like the Peiping Railways running in and out of
2 Peiping, which were Chinese government railways.
3 Thus, these former Chinese government railways were
4 seated away officially by the puppet governments
5 for operation in North China by the North China
6 Communications Company. Literally millions of
7 dollars of public property was thus disposed of
8 by the puppet officials.

9 MR. LOGAN: If the Tribunal please, the
10 defense at this time objects to any further testimony
11 by this witness with respect to economic aggressions
12 on the ground that it is immaterial and irrelevant,
13 particularly in view of this Tribunal's statement
14 through its President on July 24, 1946, wherein it
15 was said that economic aggression is not a crime.

16 THE PRESIDENT: If it is an adjunct of
17 aggressive war, it is certainly criminal.

18 Q Did you make any observation as to the
19 effect of this economic control on exchange, and if
20 you did, will you please state what your observations
21 were?

22 A The Japanese financial policy for North
23 China created a new currency and a new government
24 bank known as the Federal Reserve Bank. This was
25 followed by regulations that all exporters and importers,

GOETTE

DIRECT

1 Chinese and non-Chinese alike, except Japanese, who
2 traded with Japan had to clear their foreign ex-
3 change through the Federal Reserve Bank. This was
4 worked through a system known as link exchange --
5 l-i-n-k, link. A Chinese importer, wishing to buy
6 goods from abroad, would first have to find another
7 person who had recently exported goods abroad and
8 was holding foreign exchange. When such foreign
9 exchange was found arrangements were made through the
10 Federal Reserve Bank which proceeded to take a certain
11 percentage of that foreign exchange for its own
12 foreign exchange pool. This single Japanese imposed
13 policy in itself resulted in the gradual strangula-
14 tion of all foreign trade with the occupied areas
15 other than that with Japan.

16 Q What was the effect on domestic China of these
17 regulations?

18 A The newly imposed Japanese financial policy
19 on the occupied areas actually cut occupied China in
20 two, economically.

21 THE PRESIDENT: We will recess now for fif-
22 teen minutes.

23 (Whereupon, at 1048, a recess was
24 taken until 1103, after which the proceed-
25 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Smith.

4 MR. SMITH: If your Honor please, the
5 witness had just started to answer a question. He
6 had not completed his answer. We would like to
7 object to the question on two grounds: The first
8 is that the question is entirely too broad and amounts
9 to little more than a dragnet. The second ground is
10 that this witness has not been qualified as an
11 economist or an expert in tariff or custom matters
12 or in matters of finance; and our view is that this
13 trial loses all semblance of orderliness if a witness
14 of his background and limited experience is permitted
15 to express an opinion on these broad matters.

16 THE PRESIDENT: Well, one need not be an
17 accountant or an economist or an expert of that kind
18 in order to give the testimony that he has given.

19 MR. SMITH: For example, your Honor, this
20 witness has already said in a partial answer to the
21 question that these measures had the effect of cutting
22 China in half. Now, I doubt whether you could find
23 an expert economist anywhere in the world who would
24 come here and give that sort of testimony -- even a
25 qualified man.

GOETTE

DIRECT

1 THE PRESIDENT: Well, any intelligent man
2 living in China could form that conclusion. The
3 objection is overruled.

4 MR. HAUXHURST: May I proceed, if the
5 Tribunal please?

6 THE PRESIDENT: You may proceed.

7 BY MR. HAUXHURST (Continued):

8 Q Mr. Goette, you have stated that you were
9 a resident of Peiping. What did you observe as to
10 the effect of this Japanese economic system upon the
11 citizens of Peiping?

12 A One result was their bewilderment and con-
13 fusion that they were not able to obtain coal for
14 heating their homes in the winter as they had in the
15 past. Before the Japanese operation, coal was cheap
16 and plentiful. Following the operation, while the
17 coal mines were operated by subsidiaries of the
18 North China Development Company, it became more dif-
19 ficult to get and much higher in price, although the
20 Japanese said those mines were in full operation;
21 and, of course, Peiping was almost in the heart of
22 very rich coal areas. Likewise, the retail distribu-
23 tion of coal to the people in the Peiping area was
24 handled entirely by a Japanese concern, another sub-
25 sidiary of the North China Development Company.

GOETTE

DIRECT

1 Q Were you given any reason by any Japanese
2 officials as to why this policy was adopted so far
3 as coal was concerned in Peiping?

4 A The Japanese referred to the success of
5 their operation, that is, the quantity of coal they
6 were taking out; but, likewise, frankly stated that
7 much of that was needed for Japan's peacetime --
8 peaceful and war industries and, therefore, it was
9 being taken away. They made no attempt to hide
10 such things.

11 Q Mr. Goette, you have referred to the North
12 China Development Company. Did you have on any
13 occasion an opportunity to meet any of the officers
14 of that company?

15 A I spoke with many of its minor officials
16 and on one occasion with the then president of the
17 North China Development Company. That was in Peiping
18 in 1940. That president was Mr. Okinori KAYA, one
19 of the defendants.

20 Q Will you state the circumstances which
21 developed this occasion for this opportunity of an
22 interview with Mr. KAYA?

23 A The foreign correspondents were invited by
24 the press spokesman for the Japanese Army in Peiping
25 to go and see and talk with Mr. KAYA. That spokesman

GOETTE

DIRECT

1 acted as interpreter for Mr. KAYA during the inter-
2 view.

3 Q Was there a statement made by Mr. KAYA at
4 this interview?

5 A The interview began by a statement by Mr.
6 KAYA uninterrupted by the correspondents.

7 Q Did you or did you not make any notes of
8 this interview as it was given to you by the Japanese
9 interpreter?

10 A I made notes as I always do at such inter-
11 views.

12 Q Following this interview what did you do
13 so far as that particular incident occurred?

14 A I wrote the story and sent it to International
15 News Service.

16 Q Have you seen the story in print and where
17 did the story appear?

18 A I saw the story in what International News
19 Service calls its "Fast Mail Sheet," which is a
20 printed sheet in newspaper form and goes to all the
21 clients of the International News Service.

22 Q Do you now have a copy of that story with
23 you, and where did you get it and when?

24 A I have the printed copy as issued by Inter-
25 national News Service in New York on August 26, 1940.

GOETTE

DIRECT

1 I obtained that copy after my return to New York
2 in October, 1942.

3 Q Have you, since you have been in Tokyo,
4 reread that story?

5 A I have.

6 Q You will please state whether it is a
7 true and correct copy of the story of the KAYA
8 interview as you sent it at the time immediately
9 after the interview?

10 A It is so.

11 Q Does that story contain quotations from
12 the KAYA interview which were made from the notes
13 at the time the interpreter was interpreting the
14 interview?

15 A It does.

16 Q Mr. Goette, can you by referring to this
17 story which you have with you state accurately the
18 quotations in your story to the International News
19 Service?

20 A I can.

21 Q Now then, will you please state to the
22 Tribunal that story which was printed by the Inter-
23 national News Service, and I ask you, in order that
24 you may be accurate as to your quotations, to look
25 at the article and read those from the article.

GOETTE

DIRECT

1 THE PRESIDENT: See if you cannot recollect
2 them without looking at the article.

3 MR. HAUXHURST: If the Court please, I would
4 like to adopt the suggestion that the Court has made;
5 if he can by memory give the exact quotations, I wish
6 he would do it. But I wanted him to be sure of the
7 quotations that he made from these notes at the time
8 the interview was made; and it seemed to me that it
9 came within the rule of recorded recollection rather
10 than refreshed recollection -- recollection recorded
11 at the time -- and that, therefore, he might be able
12 to use it in order to refresh his recorded recollec-
13 tion.

14 THE PRESIDENT: Well, the rule, if we care
15 to apply it -- we are not bound by it -- is that he
16 cannot read his notes. He can only refer to them to
17 refresh his memory. There is no exception.

18 MR. HAUXHURST: Very good.

19 THE PRESIDENT: Yes, go ahead.

20 MR. HAUXHURST: If the Court please, is he
21 permitted to look at his notes in giving the --

22 THE PRESIDENT: If necessary.

23 MR. HAUXHURST: If necessary.

24 Q Mr. Goette, in answering this question you
25 will state your best recollection; and, if you can

GOETTE

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1 THE PRESIDENT: See if you cannot recollect
2 them without looking at the article.

3 MR. HAUXHURST: If the Court please, I would
4 like to adopt the suggestion that the Court has made;
5 if he can by memory give the exact quotations, I wish
6 he would do it. But I wanted him to be sure of the
7 quotations that he made from these notes at the time
8 the interview was made; and it seemed to me that it
9 came within the rule of recorded recollection rather
10 than refreshed recollection -- recollection recorded
11 at the time -- and that, therefore, he might be able
12 to use it in order to refresh his recorded recollec-
13 tion.

14 THE PRESIDENT: Well, the rule, if we care
15 to apply it -- we are not bound by it -- is that he
16 cannot read his notes. He can only refer to them to
17 refresh his memory. There is no exception.

18 MR. HAUXHURST: Very good.

19 THE PRESIDENT: Yes, go ahead.

20 MR. HAUXHURST: If the Court please, is he
21 permitted to look at his notes in giving the --

22 THE PRESIDENT: If necessary.

23 MR. HAUXHURST: If necessary.

24 Q Mr. Goette, in answering this question you
25 will state your best recollection; and, if you can

GOETTE

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1 give the quotations without referring to the news
2 item or story, you shall do so. But, if you have
3 to refresh your recollection as to the exact quota-
4 tions that appear in that news article, I understand
5 the Court will permit you to do so.

6 THE PRESIDENT: Why should we have the
7 exact quotation as long as we get the substance?
8 To insist on the exact quotation would be to compel
9 a reading of the notes and a breach of the rule.

10 MR. HAUXHURST: If the Court please, I
11 leave it to the witness.

12 THE PRESIDENT: Yes, he had better observe
13 the rule.

14 A The words of Mr. KAYA as interpreted to
15 me by the Japanese Army spokesman at the interview
16 were these: That the plan of material mobilization
17 in the area of North China occupied by the Japanese
18 Army envisaged three main points. The first point
19 was to supply to Japan the war material being con-
20 sumed in the conduct of Sino-Japanese hostilities;
21 second point, to expand the armament of Japan;
22 third, to meet the needs of peacetime industry.
23 That was substantially as I wrote the story in
24 direct quotations from Mr. KAYA.

25 Then, not in direct quotations, I said Mr. KAYA

GOETTE

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1 added that the plan was not necessarily limited to
2 the needs of any one nation but rather to the re-
3 quirements of the regular daily needs of China,
4 Japan and Manchukuo as well.
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1 Q Have you given all of the substance of that
2 interview? If you haven't, will you please give the
3 balance of it?

4 A That much Mr. KAYA said before we correspond-
5 ents went into asking questions. In elaboration as
6 to what the North China Development Company was doing
7 in China, Mr. KAYA referred to the North China Com-
8 munications Company. This subsidiary of the North
9 China Development Company Mr. KAYA said was operating
10 3,750 miles of railway in North China, 6,250 miles of
11 bus line, and 625 miles of inland waterway communica-
12 tions. In referring to other subsidiaries of the
13 North China Development Company, Mr. KAYA mentioned
14 the North China Telephone and Telegraph Company, the
15 North China Aviation Corporation, the North China
16 Salt Company, The Tatung Coal Mining Company, and the
17 Lung Yen Iron Mining Company.

18 Q MR. GOETTE, have you now given all of the
19 substance of that interview as far as you recall it?

20 A That is the substance of the principal points
21 of the interview as I recorded them and sent them to
22 International News Service.

23 MR. HAUXHURST: Then, if the Court please, we
24 have no further direct examination.

25 MR. TAKANO: Mr. President, I am TAKANO,

GOETTE

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1 counsel for the accused KAYA.

2 CROSS-EXAMINATION

3 BY MR. TAKANO:

4 Q May I ask you briefly, Mr. Witness, you said
5 a while ago that the North China railways were trans-
6 ferred to the North China Development Company. When
7 was that? Will you give me the date of the transfer?

8 A I have no information of the exact date of the
9 legal document. I only know from the time that the
10 North China Development Company this other subsidiary,
11 the North China Communications Company, began operating
12 the railways. And, as I have stated, Mr. KAYA, in
13 1940, told me, giving the exact mileage practically
14 of the North China railways operated by the North
15 China Development Company.

16 Q Then may I understand that by transfer of
17 these railways means the transfer of them to the North
18 China Communications Company rather than the North
19 China Development Company?

20 A That is exactly so, as I testified. The
21 North China Development Company had these numerous
22 subsidiaries, one of which was the North China Com-
23 munications Company which operated the railways.

24 Q Then you say you don't remember the date.
25 Now, the first president of the North China

GOETTE

CROSS

1 Development Company was OTANI, Sonyu and KAYA, Okinori
2 was the second president of this company. Now, do
3 you know the time, do you know whether this was after
4 the time -- whether this was at the time OTANI was
5 president or after KAYA had become president?

6 A The interview was initiated by the Japanese
7 Army press spokesman to meet Mr. KAYA who was then
8 told to me to be the president of the North China
9 Development Company.

10 Q Just a while ago, Mr. Witness, you mentioned
11 something about the charter and regulations of the
12 North China Development Company. Now, Mr. Witness,
13 are you familiar with the -- do you know the fact
14 that the North China Development Company itself does
15 not engage in business enterprises but that it only
16 invests or lends capital to various subsidiaries and
17 controls those subsidiaries but doesn't engage in
18 the actual enterprises themselves?

19 A That is my understanding completely.

20 Q A while ago, Mr. Witness, you referred to
21 Lieutenant Colonel YAHAGI as being the army authority
22 who was active in industrial activities, and later
23 you said in connection with Mr. KAYA's statement at
24 the interview that he mentioned to you the three
25 points of a plan of supplying war materials and

GOETTE

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1 supplying various needs for peaceful industries and
2 other needs and also the expansion of armaments. Now,
3 didn't Mr. KAYA tell you of these plans as Army plans,
4 speak of those plans as plans of the Army?

5 A MR. KAYA made no reference to the Japanese
6 Army other than I have stated in the opening remarks
7 that the plan of material mobilization in the area of
8 North China occupied by the Japanese Army. That was
9 the only reference to an army plan. I couldn't know
10 what was in Mr. KAYA's mind. I could only presume when
11 I was taken to speak to the civilian head of a Japanese
12 civilian branch that they were talking about the plans
13 of the civilian branch. When the correspondents
14 wanted information on military affairs we went to the
15 Japanese military headquarters.

16 Q Didn't Mr. KAYA at that time, as president of
17 the North China Development Company, express some of
18 the **aspirations** and desires of the company in the course
19 of his statement, for instance, that it was the purpose
20 of the company to promote collaboration between Japan
21 and China in order to develop Chinese agriculture, to
22 increase Chinese food production, to control the Yellow
23 River, and thereby to promote the general well being
24 of the people of China?

25 A I don't recall any such remarks as that. We

GOETTE

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1 had heard that many times from the underlings in the
2 organization and Mr. KAYA wouldn't devote his very
3 valued time to making those statements. As to promoting
4 Sino-Japanese collaboration, undoubtedly Mr. KAYA
5 referred to that as did every Japanese, whether he
6 was army or civilian, with whom we ever talked under
7 such circumstances.

8 Q Have you ever heard of the fact, Mr. Witness,
9 that Mr. KAYA, as president of the company at that
10 time, had spent some 20 million yen to relieve a big
11 famine which occurred in China that year ?

12 A No, that is one point that the Japanese pro-
13 paganda machine seem to have overlooked with the
14 foreign correspondents in Peiping.

15 Q There is one more point then, Mr. Witness.
16 At that time there was also a big flood in Tientsin.
17 Mr. KAYA, on returning to Japan, sent pumps and other
18 equipment over there in an effort to relieve the
19 people from the disaster. Were things of this kind
20 mentioned in the course of this interview?

21 THE PRESIDENT: Counsel has no right to
22 make a statement of fact like that.

23 MR. HAUXHURST: It doesn't seem to me this is
24 proper cross-examination.

25 MR. TAKANO: That is all.

GOETTE

CROSS

1 THE PRESIDENT: Is there any further cross-
2 examination?

3 MR. TAKANO: Mr. President, my cross-examina-
4 tion ended as per original plan or schedule. Now, am
5 I to wait, your Honor, for some decision to come from
6 you regarding the objection?

7 THE PRESIDENT: Well, I thought he had given
8 up cross-examination. My question whether there was
9 further cross-examination was not directed to counsel
10 presently at the lecturn. Apparently there is to be
11 no further cross-examination.

12 MR. TAKANO: Mr. President, in the testimony
13 of the present witness the name of KAYA has been
14 presented. Having come out rather suddenly and
15 spontaneously I had no time to confer with the accused
16 KAYA. **Inasmuch** as that is the case, may I beg of
17 the Tribunal to permit me and American counsel to
18 confer with the accused during the noon recess so that
19 we may confer on possible further cross-examination?
20 Will the Court permit me to reserve my rights on
21 that point?

22 THE PRESIDENT: Well, can the witness en-
23 lighten us on that?

24 THE WITNESS: Is that in answer to his last
25 question?

GOETTE

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1 THE PRESIDENT: I am asking you. Apparently
2 they are not sure as to the identity of this man you
3 have mentioned. Is he one of the accused?

4 THE WITNESS: He is one of the accused.

5 THE PRESIDENT: Oh. That is all right.

6 THE WITNESS: I don't think counsel denies it.

7 THE PRESIDENT: Well, we will give you that
8 opportunity later. In all fairness you should be able
9 to further cross-examine this witness after you have
10 interviewed your client.

11 MR. TAKANO: Thank you.

12 THE PRESIDENT: We will adjourn now to half
13 past one.

14 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at
2
3 1340.

4
5 MARSHAL OF THE COURT: The International
6 Military Tribunal for the Far East is now in session.

7 MR. TAKANO: Mr. President, I should like to
8 state to the Tribunal that I shall terminate my cross-
9 examination of this witness because of the fact that
10 further continuance of the cross-examination of this
11 witness would not help this Tribunal very much as the
12 matters about which this witness has testified are
13 related to economic problems.

14 THE MONITOR: Correction. Upon consultation
15 with the defendant I have arrived at this conclusion.

16 THE PRESIDENT: There is no need to explain
17 why you do not continue the cross-examination.

18 Captain Kleiman.

CROSS-EXAMINATION (Continued)

19
20 BY CAPTAIN KLEIMAN:

21 Q Mr. Goette, you testified that on March 29
22 while proceeding to the inaugural ceremonies at Nanking,
23 March 29, 1940, you were in a train accident, that
24 Chinese were responsible for that accident, and that
25 you cabled the story back to the United States. Did

GOETTE

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1 you not in that story state that Chinese communists
2 were responsible for maneuvering that train accident?

3 A Each of us correspondents telephoned the story
4 to our Shanghai representatives who there put it on
5 cable or radio. I did not use the word "communists."
6 It never occurred to me; I never thought about it until
7 you mentioned it now. If anything, the word was Chinese
8 "guerrillas" or "partisans; Chinese partisans," but
9 certainly not communists.

10 Q At that time, in that region, were there any
11 guerrillas other than Chinese communist guerrillas?

12 A By the nature of things I, as an accredited
13 correspondent with the Japanese army, would have no
14 way of knowing the makeup of any Chinese guerrilla
15 band which was on the other side. However, in that
16 Nanking story when I refer to Chinese guerrillas and
17 not to communists I, of course, am quoting the Japanese
18 army as to who they thought was responsible for it,
19 and they should have known with whom they were fighting.

20 Q Regardless of the source from which you
21 received your information, Mr. Goette, did you not in
22 any of your articles state or intimate that the forces
23 which opposed the Japanese were the Chinese communists
24 or Chinese communist bandits or guerrillas?

25 A The question originally was about events at

GOETTE

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1 Nanking on March 30, 1940. The answer to that was I
2 didn't say they were Chinese communists.

3 When you asked, did I ever say that they were
4 Chinese communists fighting the Japanese, I have said
5 that, but that is covering the whole eight provinces
6 of China over a longer period of time. If you mean
7 that way, yes.

8 CAPTAIN KLEIMAN: No further questions, your
9 Honor.

10 MR. NARITOMI: Mr. President, the witness has
11 remembered something about which I asked him a ques-
12 tion yesterday. Could I put a question to him now,
13 Mr. President?

14 THE PRESIDENT: No. Some other counsel who
15 has a right to cross-examine may put it for you.

16 MR. NARITOMI: Then there will be none other
17 who wishes to make further cross-examination.

18 THE PRESIDENT: Mr. Hauxhurst.

19 MR. HAUXHURST: May it please the Tribunal,
20 I would like to ask a question. I did not hear the
21 first part of what counsel said that first opened this
22 afternoon, but do I understand that all cross-
23 examination is closed now?

24 THE PRESIDENT: On this second stage of his
25 evidence, yes. Is he to depose to another stage?

GOETTE

1 MR. HAUXHURST: No, sir, this will be the
2 finish of the witness.

3 THE PRESIDENT: Well, he is not further
4 required.

5 MR. HAUXHURST: Very good. Then there is no
6 redirect examination.

7 THE PRESIDENT: Do you want permission for
8 him to leave Tokyo?

9 MR. HAUXHURST: Yes, sir, we would like to
10 have him relieved as a witness.

11 MR. LEVIN: Mr. President.

12 THE PRESIDENT: Mr. Levin.

13 MR. LEVIN: In view of the statement just
14 made by Mr. Hauxhurst that they would like to have him
15 relieved as a witness, that might imply that the de-
16 fense might not want to recall him. I would simply
17 like to make the statement that the defense might wish
18 at some future time to call him as their own witness.

19 THE PRESIDENT: Well, as you have been already
20 told in other cases, you may administer interrogatories,
21 Mr. Levin.

22 MR. LEVIN: Yes, sir. We simply did not want
23 the implication that by being relieved as a witness
24 at this time the defense could not call him in some
25 manner, either by interrogatories or otherwise, as the

GOETTE

1 Court might direct.

2 THE PRESIDENT: Well, he is released on the
3 understanding that he may be subjected later to inter-
4 rogatories and cross-interrogatories.

5 MR. HAUXHURST: Well, if the Court please,
6 when will he be advised of that if Mr. Goette wishes
7 to go home?

8 THE PRESIDENT: The interrogatories will be
9 in writing and may be administered in America.

10 (Whereupon, the witness was excused.)

11 - - - - -

12 MR. HAUXHURST: If the Tribunal please, I
13 wish now at this time to introduce Judge Hsiang,
14 prosecutor for China, who will appear for the prosecu-
15 tion.

16 THE PRESIDENT: Judge Hsiang.

17 JUDGE HSIANG: May it please the Tribunal,
18 in regard to the statement that I am about to make
19 covering certain activities of Japan in China, I wish
20 to ask the Tribunal to bear in mind that some of the
21 evidence to which I will refer has already been
22 introduced out of order.
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1 OPENING STATEMENT

2 IN RESPECT OF ATROCITIES AGAINST CIVILIANS AND OTHERS
3 AND USE OF OPIUM AND OTHER NARCOTICS IN CHINA.

4 "Certain of the atrocities against civilians
5 and others, charged in Counts 44 to 50 inclusive, and
6 53 to 55 inclusive, of the Indictment, which occurred
7 in the course of the war against China, and which will
8 illustrate the character of that war and the purpose
9 of the Japanese, will next be presented.

10 What we now show is but one part of the
11 over-all picture of atrocities against civilians
12 and crimes against humanity which will appear more
13 fully in a phase of the Prosecution's case hereafter
14 to be presented following an opening statement on
15 that subject by Major Pedro Lopez, Associate Pros-
16 ecutor for the Philippines. What is now to be shown
17 deals only with the war in China.

18 The evidence to be presented will show
19 that the offenses against civilians included:
20 (1) Murder and Massacre; (2) Torture; (3) Rape;
21 and (4) Robbery, looting and wanton destruction of
22 property.

23 The commission of these crimes against
24 humanity, by Japanese Troops, took place in every
25 province in occupied China and covered the entire

1 period from 1937 to 1945. An outstanding example of
2 these acts occurred following the Fall of Nanking,
3 December 13, 1937. After all resistance on the part
4 of the Chinese military forces had ceased, and the
5 city was entirely in control of the Japanese Army
6 under command of the defendant General MATSUI, an
7 orgy of violence and crimes began and continued
8 unabated for more than forty days. The Japanese
9 soldiers, with full knowledge and assent of their
10 commanding officers and of the High Command in
11 Tokyo, sought by means of these atrocities to
12 crush forever all will to resist on the part of the
13 Chinese people. The details of these crimes (which
14 have come historically to be known collectively as
15 "The Rape of Nanking"), will be shown by the evidence.
16 It is sufficient at this point to state that the
17 crimes included numerous instances of each of the
18 categories which I have described, namely, Murder
19 and Massacre, Torture, Rape and Robbery, looting
20 and wanton destruction of property.

21 It will be shown that the conduct of the
22 Japanese soldiers at Nanking was no isolated in-
23 stance. It was typical. Of the numerous incidents
24 of this character, the judicial agencies of China
25 have officially reported more than 95,000 separate

1 cases perpetrated during the period from 1937 to 1945
2 and in every province in occupied China. Knowledge
3 of these continuing atrocities by Japanese soldiers
4 in China was brought home to the Japanese High
5 Command and to the Japanese Government in Tokyo.
6 Notwithstanding frequent notification and protest,
7 the atrocities continued. This was the Japanese
8 pattern for warfare. These atrocities will be pre-
9 sented to the Tribunal by Mr. David Nelson Sutton
10 of the Virginia Bar, Col. Morrow, Mr. Parkinson,
11 and Mr. Henry Chiu of China.
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1 MR. McMANUS: If your Honor please, may I
2 object again to the prosecutor testifying?

3 THE PRESIDENT: He is merely stating what
4 he hopes to prove. We are under no misapprehension.

5 JUDGE HSIANG: I was merely giving a brief
6 description of what we expect to prove. In fact,
7 some of it we have already proven. After we have
8 completed the evidence, the defense will have all
9 the opportunity for their defense.

10 I will continue the reading of my statement.

11 It will be further shown that as a part
12 of their plan to subjugate China, the Japanese
13 leaders used opium and narcotics as weapons to
14 prepare for and to further aggression in China.
15 This was in violation of obligations of the three
16 Conventions relating to the suppression of opium
17 and narcotic drugs which are now in evidence as
18 Exhibits Nos. 17, 18 and 19, of which Japan was
19 a signatory.

20 Our evidence will prove that in advance
21 of Japanese armed aggression in any area, Japanese
22 agents, military and civilian, engaged in wide-
23 spread illegal traffic in opium and narcotics,
24 not only in Japanese concessions but in all parts
25 of China. Such agents introduced the production

1 of Heroin, morphine and other opim derivatives into
2 areas where such use had not been prevalent before.
3 They operated almost with immunity because of the
4 then existence of Japanese extra-territoriality
5 rights in China. The intent and the effect of this
6 illegal activity was to neutralize or completely
7 defeat Chinese attempts to control the drug menace.
8 The physical effect of drug addiction is so well
9 known as to make it clear that the Japanese
10 intended to render millions of Chinese listless
11 and incompetent to resist aggression.

12 The official character of this illegal
13 activity is indicated by the repeated failure of
14 Japanese consular authorities to take positive
15 action to prevent Japanese nationals from engaged
16 in narcotic traffic, or to punish adequately Japanese
17 nationals apprehended for narcotic violations by
18 Chinese or other police. This failure is in sharp
19 contrast with the drastic action taken by Japanese
20 authorities in cases where Japanese nationals sold
21 narcotics to Japanese.

22 It will be shown that as the Japanese
23 achieved domination of each area in China, that
24 area served as a basis of operations for a narcotics
25 offensive against the next area marked for that form

1 of armed aggression which the Japanese call "Pacifi-
2 cation". In this connection it will be shown that
3 beginning with the creation of the puppet government
4 of Manchukuo and then successively through North
5 China, Central China and South China, Japanese
6 controlled puppet governments followed a uniform
7 pattern of abrogating Chinese law in respect of
8 opium and other narcotics and in creating opium
9 monopolies designed to appear as opium suppressing
10 agencies, but which in fact became the sole traf-
11 fickers in opium and in narcotics in their several
12 territories. There ensued a large increase of
13 opium dens in areas under Japanese control, an
14 increase of areas assigned for the cultivation of
15 the poppy, large importations of opium and narcotics,
16 and a failure to adopt suppressive measures in
17 line with the purported purpose of the opium
18 monopolies.

19 Under the guise of control of opium for the
20 purpose of suppression, Japanese controlled puppet
21 governments received huge revenues from the opium
22 and narcotic traffic.

23 It will be shown that in "Manchukuo" a
24 Japanese loan for the purpose of financing the
25 operations of the puppet government, was secured

1 by pledge of the profits of the opium trade.

2 In short, the evidence will show that the
3 opium and narcotic traffic was sponsored by Japan
4 for two purposes:

5 (1) To weaken the stamina and undermine
6 the will to resist on the part of the Chinese
7 people;

8 (2) To provide substantial revenues
9 to finance Japanese military and economic
10 aggression.

11 The evidence with respect to narcotics will
12 be presented by Mr. Sutton, and Major John F. Hurmel
13 and Capt. Arthur A. Sandusky of the United States
14 Army.

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MAGEE

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1 Mr. Sutton will appear for the prosecution.

2 THE PRESIDENT: Mr. Sutton.

3 MR. SUTTON: May it please the Tribunal,
4 prosecution desires to call as its next witness Mr.
5 John G. Magee.

6 - - -

7 J O H N G. M A G E E, called as a witness on
8 behalf of the prosecution, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. SUTTON:

12 Q Will you please state your full name.

13 A John Gillespie Magee.

14 Q When and where were you born?

15 A I was born in Pittsburgh, Pennsylvania on
16 October 10, 1884.

17 Q Where did you receive your education?

18 A I graduated at Yale University in 1906, and
19 then at the Episcopal Theological School in Cambridge,
20 Massachusetts which is affiliated with Harvard Uni-
21 versity.

22 Q Have you resided in China and, if so, during
23 what periods?

24 A I was a minister of the Episcopal Church at
25 Nanking from 1912 to 1940.

MAGEE

DIRECT

1 Q Were you in Nanking throughout the month of
2 December, 1937, January and February, 1938?

3 A I was.

4 Q What resistance, if any, was there on the
5 part of the Japanese forces or Japanese -- I beg
6 your pardon -- on the part of the Chinese forces or
7 Chinese personnel within the city of Nanking after
8 December 13, 1937?

9 A So far as I know, none.

10 Q What was the action of the Japanese soldiers
11 toward the civilian Chinese men after they had poses-
12 sion of the city of Nanking on December 13, 1937?

13 A It was unbelievably terrible. The killing
14 began immediately in several ways, often by individ-
15 ual Japanese soldiers or, up to thirty soldiers to-
16 gether going about, each one seeming to have the
17 power of life or death; and then, soon, there was
18 organized killing of great bodies of men. Soon there
19 were bodies of men lying everywhere, and I passed
20 columns of men being taken out to be killed. These
21 people were being killed by rifle fire and machine
22 gun principally. Also, we knew of groups of several
23 hundred being bayoneted to death. One woman told me
24 that her husband's hands were tied in front of her,
25 and he was thrown into a pond, and she stayed there,

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DIRECT

1 and they wouldn't let her rescue him. He was
2 drowned before her face.

3 MR. McMANUS: If your Honor pleases, with
4 all due respect to the Tribunal, this seems to be
5 granting a tremendous amount of latitude to the
6 prosecution in permitting such testimony to be
7 offered here, particularly after, as I called to the
8 Court's attention the other day, that the prosecution
9 has had over three months to establish some kind of
10 a conspiracy. Yet this testimony is permitted with-
11 out anyone of these accused being tied into any kind
12 of a conspiracy. I know it is in --

13 THE PRESIDENT: You know as well as I do
14 that the link can be supplied by the prosecution at
15 any stage of their evidence.

16 MR. McMANUS: I know that, Mr. President.

17 THE PRESIDENT: I have not completed what
18 I have to say. I have said that at least twice be-
19 fore, and you heard me say it. These repeated ob-
20 jections on the same ground are offensive to this
21 Tribunal.

22 MR. McMANUS: Well, I am sorry, your Honor,
23 if I have created that impression, but I am only
24 trying to do my duty. I have a gentleman's life at
25 stake here, and I am trying to protect the record,

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1 and they wouldn't let her rescue him. He was
2 drowned before her face.

3 MR. McMANUS: If your Honor pleases, with
4 all due respect to the Tribunal, this seems to be
5 granting a tremendous amount of latitude to the
6 prosecution in permitting such testimony to be
7 offered here, particularly after, as I called to the
8 Court's attention the other day, that the prosecution
9 has had over three months to establish some kind of
10 a conspiracy. Yet this testimony is permitted with-
11 out anyone of these accused being tied into any kind
12 of a conspiracy. I know it is in --

13 THE PRESIDENT: You know as well as I do
14 that the link can be supplied by the prosecution at
15 any stage of their evidence.

16 MR. McMANUS: I know that, Mr. President.

17 THE PRESIDENT: I have not completed what
18 I have to say. I have said that at least twice be-
19 fore, and you heard me say it. These repeated ob-
20 jections on the same ground are offensive to this
21 Tribunal.

22 MR. McMANUS: Well, I am sorry, your Honor,
23 if I have created that impression, but I am only
24 trying to do my duty. I have a gentleman's life at
25 stake here, and I am trying to protect the record,

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24 trying to do my duty. I have a gentleman's life at
25 stake here, and I am trying to protect the record,

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1 and I am trying to do everything I possibly can for
2 him.

3 THE PRESIDENT: You will have to do your
4 duty to your client in an orderly fashion and sub-
5 ject to the rules of the Court.

6 MR. BROOKS: If your Honor please, while we
7 have this break here, the head table has been ob-
8 serving, I believe, the witness refreshing his mind
9 from some notes of some kind, and I believe, until
10 such time as it is shown that he cannot testify
11 openly to the Court from his memory, that he should
12 refrain from reading any prepared script. I would
13 like the Court's ruling on that, please.

14 THE PRESIDENT: While you are in the witness
15 box, you are not at liberty to read your notes except
16 by the permission of this Tribunal, and then only if
17 it is necessary for you to refresh your memory and
18 if the notes were taken at the time of the incident
19 to which they refer. That warning may not be war-
20 ranted in your case.

21 THE WITNESS: May I address you, sir?

22 THE PRESIDENT: Yes.

23 THE WITNESS: May I tell your Honor what
24 I have? I have here just dates. I have here a
25 diary-letter written to my wife from day to day, and

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1 these notes are just a date like "December 14."

2 I have here "cook's boy" to remind me of
3 a story. I have many stories. I am trying to give
4 them in an orderly manner to the Court, and these
5 notes which I have in my hand help me to do that.

6 THE PRESIDENT: Well, I will ask you not
7 to use them until you get permission from the Tri-
8 bunal.

9 Mr. Sutton.

10 BY MR. SUTTON (Continued):

11 Q You may resume your answer.

12 A On December 14, our school cook's boy was
13 taken off with a hundred other men down, outside the
14 city walls near the railroad tracks. He told me that
15 they were divided into two groups of about fifty
16 each, their hands were bound in front of them, and
17 they began killing them in front. He was in the back,
18 and -- a fifteen year old boy he was, and he was
19 gnawing frantically at the ropes around his wrists
20 and finally got them released and slipped into a
21 culvert or a dugout or a drain underneath the rail-
22 road track. He escaped back about thirty-eight hours
23 or more later, telling us the story. That was the
24 first proof we had of what was happening to these
25 groups of men that first were being taken off.

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1 On that same evening or the next evening,
2 I don't know which, I passed two long columns of
3 Chinese all tied up with their hands in front of
4 them, four by four. I should say that, the very
5 least, there were a thousand men in these two
6 columns, or there may have been closer to two thous-
7 and. I do not remember seeing a single Chinese
8 soldier in the group. At least, they were all in
9 civilian clothes. The wounded began to filter back
10 into the mission hospital. A man would often be shot
11 or bayoneted, would faint -- would feign death and
12 would get back to us, and we got authentic informa-
13 tion as to what was happening to these columns of
14 people that were being constantly taken out in those
15 early days.

16 On December 16, they came to a refugee camp
17 that I knew very well because it was one of my Christ-
18 ian congregations and took out fourteen men from that
19 congregation, including the fifteen year old boy of
20 the Chinese pastor. Four days later, one member of
21 that fourteen, a coolie, came back to tell us the
22 fate of the others. They had been gathered together
23 with about a thousand men and marched to the bank of
24 the Yangtze River and there mowed down with cross-fire
25 machine guns from either end. This man threw himself

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1 a split second before the bullets got him and was
2 untouched. The bodies of those about him fell over
3 him, and he lay there until it was dark, under this
4 cover, and was able to make his escape.
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1 On that same day that these fourteen men were
2 taken out, my chauffeur came to me and said they had
3 just taken his two brothers. He didn't dare go on the
4 street, but his wife went with me to where these people
5 were being collected. I found in that open space about
6 five hundred Chinese seated on the ground. We stood on
7 the edge of the crowd until this woman had found both
8 of her brothers-in-law in the crowd, and then walked
9 up to the Japanese sergeant who seemed to be in charge.
10 He was -- I walked up with the woman to the sergeant,
11 and he was so furious and drove us off that I just
12 said, "It is hopeless," and we had to walk away.

13 On the next day I took -- I saw -- I was
14 with three other foreigners -- two Russians and my
15 colleague, Forster, an American. We were standing on
16 the balcony of the house and saw a man killed. A
17 Chinese was walking along the street before this house
18 in a long silk gown; two Japanese soldiers called to
19 him, and he was so frightened; he was trying to get
20 away. He hastened his pace, was trying to get around a
21 corner in a bamboo fence, hoping there was an opening,
22 but there was no opening. The soldiers walked in
23 front of him and couldn't have stood more than five
24 yards in front of him, and both of them shot him in
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22 but there was no opening. The soldiers walked in
23 front of him and couldn't have stood more than five
24 yards in front of him, and both of them shot him in
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1 the face -- killed him. They were both laughing and
2 talking as though nothing had happened; never stopped
3 smoking their cigarettes or talking and with no --
4 they killed him with no more feeling than one taking
5 a shot at a wild duck, and then walked on.

6 On December 18, Vice Consul TANAKA of the
7 Japanese Embassy asked me to go with him to the
8 northern part of the city to Hsiakwan to point out
9 foreign property, as he wanted to put notices to
10 protect them. I could not possibly have gotten out
11 of the city gate except that I was in his car. We
12 turned onto an alley to take a short cut, but soon
13 ran into so many bodies that the car had to back out
14 of the alley, as we couldn't possibly get through
15 without driving over so many bodies.

16 We then went on down to the Bund, near the
17 Butterfield and Swire Company, and he -- while he went
18 in there with his Japanese policeman to put up notices,
19 I got out of the car and walked to the river side of the
20 Bund, where I could see down below me, and there I saw
21 three piles of Chinese dead. I don't know how many
22 bodies were there, but my estimate would be somewhere
23 between three hundred and five hundred. That may have
24 been too small. The clothing was burned off these
25 bodies, and many of them were charred. Evidently,

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1 they had been set on fire.

2 On December 21 I went again to Hsiakwan
3 with the policeman from the Japanese Embassy sent by
4 TANAKA. I think TANAKA was sincerely trying to help
5 me find a boy we had heard had escaped. This time I
6 told the chauffeur to go direct to the Bund from the
7 gate, but the policeman objected, but I insisted.
8 We got down as far as the Yangtze Villa Hotel, which
9 was a few hundred yards from the Bund, and he abso-
10 lutely insisted I couldn't go any further there; that
11 the Japanese soldier would kill me if I did. He
12 ordered the car to turn down a smaller street. We
13 came immediately to a dead body of a Chinese. I
14 remember seeing no Chinese soldiers that day dead.
15 He turned the car back again, and we started down
16 Chahar Road, the big avenue leading to the railway
17 station. Very soon we came to many bodies lying by
18 the side of the road, and he stopped the car, wouldn't
19 let it go any further, and said there were no Chinese
20 in Hsiakwan. I said, "There are plenty of dead here."

21 On the 22nd of December I took moving pic-
22 tures of a group of about sixty to seventy Chinese
23 men being gathered on a road -- on Shanghai Road it
24 was -- and there the picture shows women kneeling
25 in the streets before the Japanese, begging for their

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1 menfolk, and also one old man knelt down and begged,
2 but they carried them off.

3 THE PRESIDENT: We will recess now for
4 fifteen minutes.

5 (Whereupon, at 1447, a recess was
6 taken until 1505, after which the proceed-
7 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Yes, Mr. Sutton.

4 BY MR. SUTTON (Continued):

5 Q Mr. Magee, you may continue your answer.

6 A On December 21st, Vice-Consul TANAKA told
7 me that the bad division then in Nanking would be
8 changed for a better one and that ~~he~~ thought by
9 December 24th everything would be settled; but by
10 December 24th and after that there was no apparent
11 betterment.

12 Q What was the action of the Japanese soldiers
13 toward the women and children in the City of Nanking
14 after they were in occupation of that city?

15 A It was again the same story, unbelievably
16 terrible. The rapings continued day by day. Many
17 women were killed and even children. If a woman
18 resisted or refused, she ~~was~~ either killed or stabbed.
19 I took pictures, moving pictures of the wounds of
20 many of these women -- women with their necks slit,
21 stabs all over their bodies.

22 If the husband of the woman tried to help
23 her in any way, he was killed. One evening I was
24 called to a house where a Japanese soldier had come
25 at four-thirty in the afternoon. He was trying to

MAGEE

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1 rape the man's wife and this owner, the man's (sic) hus-
2 band, helped her to escape out of a door the Japanese
3 soldier didn't know was in the back of the house.
4 The Japanese soldier was unarmed when he first
5 came. He went away and came back armed and killed
6 the woman's husband. The woman took me out in back
7 of the house where the husband's body was.

8 The first case of rape that I personally
9 ran into was among the very first nights. A woman
10 stopped me and my colleague Forster on the street and
11 begged us to save her life. It was in the dark.
12 This woman said her story. She had been taken from
13 her husband at six o'clock that afternoon and taken
14 in a motor car for three or four miles where three
15 Japanese soldiers raped her. They sent her back to
16 within about a mile of her house and she got out very
17 near to where we were going; and just as the Japanese
18 soldier called to her, she either saw us or heard us
19 and rushed up to us and asked us to save her, which
20 we did.

21 On December 18th, I went with Mr. Sperling,
22 a German member of our Committee, to the residential
23 section of the city. It seemed to us that there were
24 Japanese soldiers in every house after women. We
25 went into one house. On the ground floor a woman

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1 was weeping, and the Chinese there told us she had
2 been raped. They said there was still another
3 Japanese in the house on the third floor. I went
4 up there and tried to get into the room that was
5 indicated. The door was locked. I pounded on the
6 door and shouted and Sperling soon came and joined
7 me. After about ten minutes a Japanese soldier
8 came out leaving a woman inside. On December 20th
9 I was called to a house where they told me a little
10 girl of ten or eleven had been raped. I took her
11 to the hospital, but I got to the house in time to
12 keep three other Japanese soldiers from going in.
13 When I returned from the hospital, I was called to
14 another house, drove out three Japanese in the woman's
15 quarters on the second floor; and then the Chinese
16 there pointed to a room. I rushed into the room,
17 bursting open the door and found a soldier -- a
18 Japanese soldier -- in the act of rape. I drove him
19 out of the room, completely out of the house and out
20 of the alley where the house was.

21 There were many other cases of this kind.
22 There was one of our biggest problems -- all of us
23 foreigners'. We couldn't do anything about keeping
24 them from taking off men, but we could prevent them
25 from raping these women.

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1 My colleague Forster and I after a few days
2 of occupation learned we could never leave a house
3 where we had a number of Christian refugees together
4 at the same time. He and I were living with our
5 Chinese Christians and trying to protect them, but --
6 apart from the other foreigners, we were some dis-
7 tance off. But the other Americans there invited
8 us to New Year's dinner on January first. It was
9 our custom to stand in the streets all day long,
10 one or the other of us guarding three houses; and
11 as soon as the Japanese soldiers stopped at one of
12 these houses, we would rush at him and he would go
13 off. On New Year's Day one of the Americans came
14 in a car and invited us to come. I didn't want to
15 leave but he said nothing could happen in an hour
16 there. He would have us back in an hour. So we
17 went. That was the particular place where we were
18 keeping most of our young girls. Before we were
19 through with the meal, two of our Chinese came
20 running to say there were Japanese soldiers in there
21 after the girls. We were not in time to save two
22 girls from rape. One woman that I have known for
23 almost thirty years, one of our Christians, told me
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23 almost thirty years, one of our Christians, told me
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25 Japanese soldier came in, she knelt before him,

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1 begging him to leave the girl alone. He hit her
2 over the head with the flat side of a bayonet
3 and raped the girl.

4 If there had been any real effort to stop
5 this conduct, it could have been stopped; but it
6 was looked upon entirely too lightly. One day
7 Herr Rabe, the Chairman of our Safety Zone Committee,
8 went home to his own house with a Japanese officer.
9 Mr. Rabe had taken in many Chinese women, two or
10 three hundred into his own yard where they put up
11 little huts. This day when he got home with this
12 Japanese officer, they saw a soldier in the actual
13 act of raping a woman in one of these huts. All
14 the Japanese officer did was to slap the Japanese
15 soldier's face and Herr Rabe was utterly disgusted
16 and came and told the other members of the Committee.

17 On January 30th we had to deal with a new
18 crisis because the Japanese were trying -- came to
19 us and were trying to force us to send the women
20 back home from our Safety Zone.

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1 Q This was January 3 of what year?

2 A They didn't want us -- these women to be under
3 our care. We decided to make a showing of compliance
4 because we were afraid the whole Safety Zone would be
5 disbanded by force and so we advised the older women
6 to go home but we kept the younger girls under our
7 protection. We began to hear stories immediately of
8 these women, whom some of us got to know in the Safety
9 Zone, -- rapings began again with the women who went
10 back.

11 I went to investigate one of these cases with
12 Miss Vautrin, an American, the vice president of
13 Gingling College, where at the worst time we had be-
14 tween twelve and thirteen thousand girls. I should
15 have said twelve or thirteen thousand women and girls.
16 We went to a house in the South City. As we entered
17 in the front part of the house a woman was weeping.
18 She told us the Japanese soldiers had killed her
19 husband. We went to the back of the house where lived
20 the owners of the house, a widow in her forties, a
21 twelve year old daughter and her old seventy-seven
22 year old mother. They told us their story.

23 This widow, when the Japanese first entered,
24 had been raped repeatedly. Then they decided to try
25 to escape to our Safety Zone. On their way, as they

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1 were going along the street in the dark, the woman
2 got separated from her old mother. The mother told
3 us that she had been taken into a house on the way
4 and raped twice. Seventy-seven years old! The widow,
5 after returning to her home from the safety of Ging-
6 ling College, told us she had been raped many times.
7 Altogether I think she said she had been raped between
8 seventeen and eighteen times.

9 A Bible woman, that is, a Christian woman
10 evangelist, told me she was living with an old woman,
11 an eighty year old Chinese -- that means she is
12 seventy-eight or seventy-nine years old. A Japanese
13 came to her house, called out the old woman to the
14 door, and then made motions for her to open her cloth-
15 ing. The old woman said, "I am too old," and the
16 soldier shot her dead.

17 Toward the end of January I went to a place
18 in the South City to investigate a series of crimes
19 that took place in the house at No. 6 Hsinkai Road.

20 Q Mr. Magee, what year was this?

21 A It was the year of 1938. When we got to that
22 road, which was inside the south gate, the people --
23 many had returned -- told us that in that little road
24 alone about five hundred people had been killed.

25 I went into No. 6 Hsinkai Road and was shown

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1 around by an old maternal grandmother of many of these
2 children who were killed. Only two children escaped
3 out of the thirteen people in that house. A little
4 girl of about eight or possibly nine told me the story,
5 who had been through the whole thing and was stabbed
6 in the back twice. I photographed the wounds in her
7 back which had healed at that time. This thing had
8 taken place when the Japanese soldiers first came into
9 the city. About thirty soldiers had come to the door
10 and knocked. The owner of the house, a Mohammedan
11 I think, opened the door; they killed him instantly.
12 Then they killed the Chinese who was kneeling behind
13 him. Then the owner of the house's wife. Then they
14 went through into a little open court to a side room
15 where there was -- They went into this room to the
16 side of the court and there grabbed and started to
17 strip two young girls, fourteen and sixteen. The
18 paternal grandmother of these children threw her arms
19 around one girl to protect her and they killed the
20 grandmother. She was seventy-four years old. Her
21 husband, seventy-six years old, sprang to his wife and
22 threw his arms about her, and they killed him. They
23 then raped these girls I don't know how many times,
24 and killed them, and the old **maternal** grandmother who
25 was showing me around brought me a bamboo stick that

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1 she said had been taken -- I think she took it herself
2 because she was the first one back -- from the vagina
3 of one of those girls. The little girl, too, was in
4 that same room and her either brother or sister about
5 four -- the child was in boy's clothes but that isn't
6 proof -- it was a girl -- and I say this girl was
7 stabbed twice.

8 In another room, off the same larger courtyard,
9 the mother was hiding under a bed with her one year
10 old child. **They** raped the woman and then killed her
11 and also the one year old baby, and when the body was
12 found there was a bottle pushed into the vagina of the
13 woman.

14 The little girl told me of another murder of
15 a child, I don't know what age, that was cut down
16 through the head with a sword.

17 The bodies had been carried out of the build-
18 ing by the time I got there, which was possibly six
19 weeks afterwards, but the blood was spattered every-
20 where, and if my moving picture camera -- if I had had
21 colored film it would have shown blood spattered on
22 the table where one of the girls was raped and on the
23 floor where another person was killed.

24 The old woman took me out to an open space
25 near the house and unrolled a covering -- it was a

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1 bamboo covering -- from the bodies of the fourteen
2 year old girl, the sixteen year old girl, and the
3 mother who was this old woman's daughter, and one year
4 old baby.

5 MR. McMANUS: Mr. President, I beg the Court's
6 indulgence, to bear with me for just a few minutes on
7 a point of law.

8 THE PRESIDENT: Put your point.

9 MR. McMANUS: My point is, Mr. President,
10 that you have overruled this objection but I don't
11 think **I have been fully** heard.

12 THE PRESIDENT: You have always been fully
13 heard.

14 MR. McMANUS: Well, I don't want then to take
15 up the time of the Tribunal by objecting again. But
16 may I be heard further?

17 THE PRESIDENT: I haven't **the faintest idea**
18 what objection you are going to make. You haven't told
19 me.

20 MR. McMANUS: Well, if your Honor pleases, I
21 have mentioned that you have overruled this objection
22 before.

23 THE PRESIDENT: Well, do state it.

24 MR. McMANUS: But in this conspiracy charge
25 here, why, these accused are being charged with

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1 conspiracy and they are **being** charged with certain acts
2 and your Honor has definitely stated on many occasions
3 to the prosecution, "All right, subject to connection."
4 That, of course, is perfectly all right, but what
5 **latitude** is your Honor going to extend to the pros-
6 ecution subject to connection whereby these accused
7 might be called in at some later date. And then there
8 is a possibility of three or four of them not of being --
9 of being acquitted, and this testimony is being intro-
10 duced against them to be besmudged forever. My point
11 is, Mr. President --

12 THE PRESIDENT: That applies to every accused
13 who has ever been acquitted of a crime. I have
14 allowed you to speak at length so that the absurdity
15 or your remarks would be borne on the face of the
16 record.

17 THE WITNESS: One day a Buddhist nun was
18 carried to the main hospital whose hip, she told us,
19 had been shattered by a Japanese bullet. The Chinese
20 tailor who brought her told me that about twenty-five
21 people had been murdered in the immediate vicinity of
22 the temple behind which this nun, and many other
23 Buddhist nuns, were housed. She told us that her
24 little apprentice nun -- the **Buddhist nuns** all seem
25 to have apprentice nuns -- a girl of twelve Chinese,

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1 about ten we will say, had been stabbed. McCallum,
2 of the hospital, took the car and rescued the child
3 who had a bad bayonet wound in the back. She was
4 attended to for some weeks in the hospital. Then I
5 took it to my own home. But the wound kept breaking
6 down and she had to be taken -- they took her back to
7 the hospital many times.

8 The nun told me -- I had an extended conversa-
9 tion with her on January 5 and later got to know her
10 quite well -- told me in detail what had happened.
11 She said the Mother Superior of this nunnery, a woman
12 of sixty-five Chinese, had been killed by the Japanese
13 and also the Mother Superior's little apprentice nun,
14 again a child of ten.

15 On February 1, while having lunch with my
16 colleague Forster, a boy came running in to say
17 they were after a girl. The Japanese.

18 Q This was February 1 of what year?

19 A 1938. We rushed across an open space about
20 a hundred yards wide, led by this child who pointed
21 out the house. We rushed into the house. There was
22 a man -- he pointed to a door. We tried to open it
23 but couldn't. We broke down the door by throwing
24 ourselves against it. Two Japanese soldiers were on
25 the bed with a fifteen year old girl. We rushed at

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12 of sixty-five Chinese, had been killed by the Japanese
13 and also the Mother Superior's little apprentice nun,
14 again a child of ten.

15 On February 1, while having lunch with my
16 colleague **Foster**, a boy came running in to say
17 they were after a girl. The Japanese.

18 Q This was February 1 of what year?

19 A 1938. We rushed across an open space about
20 a hundred yards wide, led by this child who pointed
21 out the house. We rushed into the house. There was
22 a man -- he pointed to a door. We tried to open it
23 but couldn't. We broke down the door by throwing
24 ourselves against it. Two Japanese soldiers were on
25 the bed with a fifteen year old girl. We rushed at

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1 them shouting -- we were very excited and angry -- and
2 one of them jumped for his gun, a pistol, and for his
3 belt and rushed out. The other one was too drunk to
4 rush off and we threw him out of the house. I followed
5 him to a nearby sentry and then wrote, in a few Chinese
6 characters, to the sentry to let him know what had
7 happened and the sentry only laughed. The father of
8 the girl told us that this was the fifth time the
9 child had been raped. We were there too late to
10 prevent them both from raping that girl that time.

11 Sometime in February, I don't know when, I
12 took another little girl of fifteen to the University
13 Hospital.

14 THE PRESIDENT: We will adjourn now until
15 half past nine tomorrow morning.

16 (Whereupon, at 1600, an adjourn-
17 ment was taken until Friday, 16 August 1946,
18 at 0930.)

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